

## LEGISLATIVE BILL 7

Approved by the Governor February 3, 2003

Introduced by Executive Board: Engel, 17, Chairperson

AN ACT relating to postsecondary education; to amend sections 85-121, 85-121.03, 85-943, 85-966.01, 85-1412, 85-1413, and 85-1414, Reissue Revised Statutes of Nebraska; to repeal obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 85-121.05, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 85-121, Reissue Revised Statutes of Nebraska, is amended to read:

85-121. For the furtherance and promotion of agriculture and stockraising interests of this state, a technical college of agriculture is hereby established near the town of Curtis in Frontier County, Nebraska. Such college shall be maintained under the conditions prescribed in this section and sections 85-121.03 and 85-121.04 and shall be known as the Nebraska College of Technical Agriculture at Curtis. Such college of agriculture shall be under the control and management of ~~(1) the Board of Regents of the University of Nebraska. or (2) the Board of Governors of the Mid-Plains Community College Area if the Coordinating Commission for Postsecondary Education changes the role and mission assignment in the comprehensive statewide plan pursuant to sections 85-121.05 and 85-1413.~~

The Nebraska College of Technical Agriculture at Curtis shall be devoted to a statewide mission of instruction relating to food and agriculture at less than the baccalaureate degree, with concentration on the applied associate degree. The program shall be organized to provide expedient response to the changes needed in technical education to serve the agricultural industry of the state.

Sec. 2. Section 85-121.03, Reissue Revised Statutes of Nebraska, is amended to read:

85-121.03. ~~(1) The Legislature shall appropriate from the General Fund the money necessary to carry out the duties and programs of the Nebraska College of Technical Agriculture at Curtis. The appropriation shall be made to the Board of Regents of the University of Nebraska for the sole purpose of maintaining the duties, programs, and facilities of such college.~~

~~(2) If the Coordinating Commission for Postsecondary Education changes the role and mission assignment of the college in the comprehensive statewide plan pursuant to sections 85-121.05 and 85-1413, the appropriation made pursuant to subsection (1) of this section shall be made to the Board of Governors of the Mid-Plains Community College Area. No property tax revenue collected pursuant to the levy authorized in section 85-1517, no state aid received pursuant to section 85-1536, and no tuition funds or fee funds received from students attending other community colleges shall be used to support the Nebraska College of Technical Agriculture at Curtis. Students enrolled at the college shall not be counted for purposes of determining reimbursable educational units as defined in section 85-1503.~~

Sec. 3. Section 85-943, Reissue Revised Statutes of Nebraska, is amended to read:

85-943. The University of Nebraska may continue to offer the associate degree, diploma, and certificate-in-course in agriculturally related fields, radiologic technology, radiation therapy, nuclear medicine technology, and engineering technology if approved by the Coordinating Commission for Postsecondary Education pursuant to sections 85-1413 and 85-1414 upon the demonstration of a compelling need and unique capacity by the university to offer such programs. ~~If the Nebraska College of Technical Agriculture at Curtis is transferred to the Mid-Plains Community College Area pursuant to sections 85-121, 85-121.03, 85-121.04, and 85-121.05, the University of Nebraska shall not be authorized to offer associate degrees, diplomas, or certificates-in-course in agriculturally related fields. The University of Nebraska shall not offer associate degrees or less than associate-degree-level diplomas or certificates-in-course in other than authorized and approved programs.~~

Sec. 4. Section 85-966.01, Reissue Revised Statutes of Nebraska, is amended to read:

85-966.01. After January 1, 1995, the Legislature shall not change the role and mission provisions in this section and sections ~~85-121.05 and~~

85-917 to 85-966 unless and until a proposal for such change has first been reviewed by the Coordinating Commission for Postsecondary Education and its recommendations on such proposal have been given to the Legislature pursuant to subdivision (2) of section 85-1412, section 85-1414, or otherwise.

Sec. 5. Section 85-1412, Reissue Revised Statutes of Nebraska, is amended to read:

85-1412. The commission shall have the following additional powers and duties:

(1) Conduct surveys and studies as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 and request information from governing boards and appropriate administrators of public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 85-1417;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections ~~85-121.05~~ and 85-917 to 85-966.01;

(3) Establish any advisory committees as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or to solicit input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer the State Scholarship Award Program Act, the Scholarship Assistance Program Act, and the Postsecondary Education Award Program Act;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) Make recommendations to the State Board of Education with regard to granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under the Private Postsecondary Career School Act whenever any correspondence school, business school, or vocational school offers any course which is intended to lead to the granting of an associate degree, diploma, or certificate or any course which qualifies for college credit;

(10) Pursuant to sections 85-1101 to 85-1104, authorize out-of-state institutions of higher or postsecondary education to offer courses or degree programs in this state;

(11) Pursuant to sections 85-1105 to 85-1111, approve or disapprove petitions to establish new private colleges in this state;

(12) ~~(a) On or before October 1, 1994, and on or before October 1 every two years thereafter through October 1, 1999, submit to the Legislature and the Governor a report of its objectives and activities and the implementation of any recommendations of the commission for the preceding two calendar years; and~~

~~(b) On or before December 1, 2000, and on or before December 1 every~~

two years thereafter, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years;

(13) Provide staff support for interstate compacts on postsecondary education; and

(14) Request inclusion of the commission in any existing grant review process and information system.

Sec. 6. Section 85-1413, Reissue Revised Statutes of Nebraska, is amended to read:

85-1413. (1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall establish and revise as needed a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as prescribed in sections ~~85-121.05~~ and 85-917 to 85-966 and (b) a plan for facilities which utilize tax funds designated by the Legislature.

(2) Beginning on September 1, 1999, the commission shall work in consultation with the governing boards in revising the existing comprehensive statewide plan to reflect the role and mission of public postsecondary educational institutions and to articulate statewide goals. The process of reviewing and revising the plan shall be completed by January 1, 2001, if practicable.

(3) The planning process of the commission (a) shall be policy-based and ongoing in order to achieve, within the coordination function of the commission pursuant to section 85-1403, the best possible use of available state resources for high quality and accessible postsecondary educational services and (b) shall take into consideration (i) the needs of the state as described in subsection (4) of this section, (ii) general assignments of role and mission for each public institution in sections ~~85-121.05~~ and 85-917 to 85-966, and (iii) plans for facilities which utilize tax funds designated by the Legislature.

(4) In establishing the plan, the commission shall assess the postsecondary educational needs of the state in the following areas:

- (a) The basic and continuing needs of various age groups;
- (b) Business and industrial needs for a skilled work force;
- (c) Demographic, social, and economic trends;
- (d) The needs of the ethnic populations;
- (e) College attendance, retention, and dropout rates;
- (f) The needs of recent high school graduates and place-bound adults;

(g) The needs of residents of all geographic regions; and

(h) Any other areas the commission may designate.

(5) The plan shall provide a structure or process which encourages and facilitates harmonious and cooperative relationships between public and private postsecondary educational institutions and shall recognize the role and relationship of elementary and secondary education and private postsecondary educational institutions in the state to postsecondary education.

(6) The commission shall incorporate into the plan provisions and policies to guide decisionmaking by the commission pursuant to this section and sections 85-1414 and 85-1415. The provisions and policies shall address issues which include, but are not limited to:

(a) The facilitation of statewide transfer-of-credit guidelines to be considered by institutional governing boards. The statewide transfer-of-credit guidelines shall be designed to facilitate the transfer of students among public institutions. The statewide transfer-of-credit guidelines shall not require nor encourage the standardization of course content and shall not prescribe course content or credit value assigned by any public institution to the courses;

(b) Recommended guidelines for admissions which recognize selective and differentiated admission standards at public institutions and which are consistent with the role and mission of each public institution. It is the intent of the Legislature that changes in admission standards be implemented in conjunction with the role and mission statements established pursuant to this section and sections ~~85-121.05~~ and 85-917 to 85-966 and the adoption of statewide transfer-of-credit and remedial program policies to assure that access to postsecondary education is not limited;

(c) Recommended enrollment guidelines consistent with the role and mission of each public institution and specific recommendations designed to increase diversity through more effective enrollment and retention at public

institutions;

(d) Recommended guidelines for rational and equitable statewide tuition rates and fees for public institutions. The commission shall identify public policy issues relating to tuition and fees of the public postsecondary educational institutions in the state. The recommended guidelines shall take into account the role and mission of each public institution and the need to maximize access to public postsecondary education regardless of a student's financial circumstance;

(e) In conjunction with and consistent with its recommended guidelines on admission standards, recommended guidelines which place the primary emphasis at the community college level for postsecondary education remedial programs and reduce the role of the University of Nebraska in offering remedial programs. The commission shall collaborate with the Commissioner of Education to develop recommendations for secondary schools designed to reduce the need for remedial or developmental programs at the postsecondary level;

(f) In consultation with the governing boards or their designated representatives, designation of geographic and programmatic service areas for each public institution consistent with role and mission assignments. Except as permitted by the commission pursuant to section 85-1414, after July 1, 1992, no public institution shall provide programs at any site outside its assigned geographic and programmatic service area unless permitted under rules and regulations adopted and promulgated by the commission;

(g) After consultation with the governing boards and experts from outside the State of Nebraska, the establishment of a peer group or groups for each public institution for purposes of budget review. In fulfilling this charge, the commission may accept a peer group determined by a governing board in consultation with out-of-state experts;

(h) Effective use of information technologies and telecommunications to aid in the delivery of instruction at the postsecondary level. In cooperation with the Nebraska Educational Telecommunications Commission, other state agencies, and, when appropriate, representatives of elementary and secondary public education, the commission may assist in the development of instructional delivery systems employing information technologies and telecommunications. The commission, with the involvement of faculties, public institutions and private postsecondary educational institutions, and the information technology and telecommunications community, shall establish policies to ensure that the objectives of quality and efficiency are met in the delivery of information technology and telecommunications-aided instruction;

(i) Workforce development. The commission shall explore methods to improve the competitive quality of the work force and shall encourage enhanced communications and partnerships between public institutions and business and industry;

(j) Public service activities. The public institutions shall develop and provide to the commission a comprehensive inventory of public service programs and activities of public institutions; and

(k) Financial aid strategy. The commission shall develop a state strategy for state-supported student financial aid programs with the goal of assuring access to and choice in postsecondary education in Nebraska for Nebraska residents within the limits of available state resources.

(7) The commission shall develop a unified statewide facilities plan in consultation with the governing boards or their designated representatives and update the plan periodically.

(8) Prior to March 15 of the year following the year of adoption of the revised comprehensive statewide plan for postsecondary education required by subsection (2) of this section and prior to March 15 of the year following a year in which any revision is made to the comprehensive statewide plan, the Education Committee of the Legislature shall review the comprehensive statewide plan and revisions thereto at a public hearing and report its findings to the Legislature.

Sec. 7. Section 85-1414, Reissue Revised Statutes of Nebraska, is amended to read:

85-1414. (1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall establish an ongoing process to review, monitor, and approve or disapprove the new and existing programs of public institutions and proposed capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive statewide plan and to prevent unnecessary duplication. When complying with requests for information during the review, monitoring, and approval process, public institutions may

comply pursuant to section 85-1417.

(2) (a) Governing boards shall submit to the commission all proposals for any new program after the governing board has approved the program and prior to implementation of the program. Except for programs submitted for conditional approval by the commission pursuant to subdivision (b) of this subsection, the commission shall have ninety days from the date the program was submitted to disapprove a program or it shall stand approved. The commission shall establish a waiver process for specific, short-term job training programs and short-term public service programs as defined by the commission. New programs submitted for review may be approved or disapproved in whole or in part and with or without recommended modifications based on criteria established pursuant to subsection (7) of this section.

(b) After approval of the program by the governing board, the governing board may submit a proposal for a program which is not authorized by the role and mission provisions of sections ~~85-121.05~~ and 85-917 to 85-966 to the commission for conditional approval. Within one hundred twenty days from its receipt of the proposal, the commission shall report to the Legislature its recommendation in support for or opposition to the amendments to the role and mission statutes that would be necessary for the commission to approve the program and for the institution to offer the program. The time period for submission of the report may be extended for up to an additional ninety days by resolution of the commission which shall show good cause why the extent of review required for this particular proposal necessitates an extension of time to complete the review. Such extension shall be filed with the chairperson of the Education Committee of the Legislature prior to the expiration of the initial one hundred twenty days. The report shall contain supporting rationale for the commission's position, such additional comments as the commission deems appropriate and, in the event the commission supports the amendments to the role and mission statutes, the commission's specific recommendation as to the form of such amendments. If the report indicates support for the necessary amendments to the role and mission statutes, the report shall also constitute the commission's conditional approval of the program, unless the report specifically indicates disapproval of the program. If the necessary amendments to the role and mission statutes supported by the commission in its report to the Legislature are subsequently enacted by the Legislature, the program shall stand approved. Nothing in this section for conditional approval shall be construed to affect the commission's future consideration of such proposal or approval or disapproval of any programs affected by the proposal.

(3) Following approval of a new program, such program shall be added to the schedule of existing programs to be reviewed by the commission. Following consultation with the governing board, new programs approved by the commission may also be required to meet, within a reasonable time as stipulated by the commission, minimum performance standards established by the commission pursuant to its rules and regulations. If a program fails to meet minimum performance standards, the commission shall review the program and may continue or withdraw its approval for the program.

(4) Existing programs shall be reviewed by the commission pursuant to a program review process established by the commission in consultation with the governing boards or their designated representatives which, to the extent possible while still allowing for timely review by the commission, shall coincide with institutional review and accreditation cycles. In reviewing existing programs, the commission may make use of nonconfidential information and conclusions provided by accreditation processes supplied to the commission by the institutions. All programs in existence prior to January 1, 1992, shall be considered approved until the approval is confirmed or withdrawn by the commission pursuant to the program review process conducted by the commission.

(5) Existing programs which do not meet criteria established by the commission pursuant to subsection (7) of this section shall be targeted for indepth review by the public institutions and their governing boards. In performing such indepth review, institutions may make use of information and conclusions provided by accreditation and other established and ongoing academic review processes rather than providing for a separate review process. Programs continued by the governing boards shall be further monitored by the governing board which shall report the status and process of the monitoring to the commission. If the commission determines that a program does not merit continuation, it shall hold a public hearing, following thirty days' notice to the public institution, to consider if the program should be continued. Following the hearing, the commission shall take action to approve or disapprove continuance of the program.

(6) Existing programs disapproved for continuance by the commission

shall be terminated by a public institution when all students in the program on the date of the decision of the commission to disapprove continuance of the program have had a reasonable opportunity, as determined by the governing board of the public institution, to complete the program. Existing public service programs disapproved for continuance by the commission shall be terminated at the end of the fiscal year in which the decision to disapprove is made.

(7) The commission shall establish criteria for the review, monitoring, and approval or disapproval of programs. The governing boards of the public institutions shall be responsible for assuring the quality and effectiveness of programs offered by their institutions. The commission's criteria shall be designed to (a) meet educational needs and (b) assure efficiency and avoid unnecessary duplication. Criteria shall include:

- (i) Centrality to the role and mission of the public institution;
- (ii) Consistency with the comprehensive statewide plan;
- (iii) Evidence of need and demand; and
- (iv) Adequacy of resources to support proposed new programs.

The criteria shall not infringe on the prerogative of the governing boards to make decisions on the quality of staff and the design of curriculum.

(8) The commission shall develop specific criteria for review, monitoring, and approval or disapproval of participation by any public institution in proposed or existing education centers in addition to the criteria specified in this section. Participation by a public institution in an education center shall also be approved by the governing board of such public institution. The commission shall develop policies and procedures for conducting and approving off-campus programming in an education center. ~~Any education center developed and established on or after November 6, 1990, except for any program for which funds have been specifically earmarked by the Legislature for FY1990-91, shall be deemed disapproved until approved as a new program by the commission.~~

(9) Each public institution shall submit its most recent institutional facilities plan to the commission subject to commission guidelines for the format and content of such plans. The commission shall (a) review each institutional facilities plan to ensure (i) consistency with the comprehensive statewide plan, statewide facilities plan, and institutional role and mission assignments and (ii) identification of unnecessary duplication of facilities and (b) make a written report of its review to the governing board of the public institution within ninety days after receipt of the institutional facilities plan. The commission may, in accordance with the coordination function of the commission pursuant to section 85-1403, recommend modifications to the institutional facilities plans and may require submission of periodic updates of the institutional facilities plans.

(10) Governing boards shall submit all proposed capital construction projects which utilize tax funds designated by the Legislature to the commission for review and approval or disapproval. The commission shall, in accordance with the coordination function of the commission pursuant to section 85-1403, review, monitor, and approve or disapprove each such capital construction project to provide compliance and consistency with the statewide facilities plan and the comprehensive statewide plan and to prevent unnecessary duplication of capital facilities. The commission may disapprove a project only on the basis of a finding by the commission that the project (a) does not comply or is inconsistent with one or more provisions of the statewide facilities plan or other relevant provisions of the comprehensive statewide plan or (b) will result in unnecessary duplication of capital facilities. ~~All capital construction projects in existence or receiving appropriations prior to January 1, 1992, shall be deemed approved.~~

(11) In fulfilling its program and project approval activities prescribed in this section, the commission shall, in accordance with the coordination function of the commission pursuant to section 85-1403, recognize educational activities among all segments of postsecondary education and take into account the educational programs, facilities, and other resources of both public and independent and private postsecondary educational institutions.

(12) Any program which is authorized by action of the Legislature or a governing board and which is not in existence prior to January 1, 1992, shall not become operative unless and until such program has been approved by the commission pursuant to this section.

Sec. 8. Original sections 85-121, 85-121.03, 85-943, 85-966.01, 85-1412, 85-1413, and 85-1414, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. The following section is outright repealed: Section 85-121.05, Reissue Revised Statutes of Nebraska.